IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.17793 of 2006

Dated:28-08- 2006

Between:

P.V.Reddy

…..PETITIONER

AND

A.P.S.R.T.C,
Rep by its Managing Director,
Musheerabad, Hyderabad and another

….RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No. 17793 of 2006

ORDER:

Assailing the action of the respondents in not paying the gratuity amount to the petitioner for his out of employment period i.e., from the date of removal to the date of reinstatement for a period of eleven (11) years, the present writ petition is filed.

The petitioner while working in the Corporation as conductor was removed from service by proceedings dated 28.4.1986. Questioning the removal order dated 28.4.1994, he raised an Industrial Dispute and the same was registered as I.D.No.140 of 1987 on the file of the Additional Industrial Tribunal cum Additional Labour Court, Hyderabad. The Labour Court on consideration of the matter, passed an award dated 27.11.1991 directing reinstatement into service without continuity of service and backwages. Challenging the award dated 27.11.1991, the petitioner filed W.P. No. 3569 of 1992. The said writ petition was disposed of by order dated 4.11.1995 modifying the award and directing reinstatement with continuity of service with 50 % of backwages. The matter was carried in appeal in W.A. No. 1264 of 1996. The appeal was disposed of by order dated 1.11.1996 whereby the reinstatement and continuity of service was confirmed and backwages were denied.

The petitioner was reinstated into service in the month of February, 1992 and subsequently promoted to the post of Assistant Depot and on attaining the age of superannuation retired from service on 30.4.2006. The grievance of the petitioner is that he is entitled to an amount of Rs.1,97,090/- towards gratuity and the respondent corporation has only paid an amount of Rs.1,22,123/- excluding an amount of Rs.74,967/- for a period of eleven years- i.e., the period from the date of removal to date of reinstatement. The petitioner states that he has issued a legal notice dated 4.6.2006 to the second respondent to release the withheld amount of gratuity and having received the same, no action was taken till date.

The learned counsel for the petitioner submits that the issue involved in this Writ Petition is squarely covered by a decision of this Court in ***M.Rama Rao Vs. Asst. Traffic Manager, A.P.S.R.T.C, Hyderabad and another***[1] wherein this Court held that in a case where under Section 11 of the Industrial Disputes Act, 1947, the Labour Court has set aside the order of removal of any employee and directed that the employee be reinstated into service with continuity of service, the management could not deny the payment of gratuity to the employee on his retirement for the period during which he was out of employment as a result of the illegal order of removal.

The learned counsel for the respondents also conceded that the present the writ petition is covered by the above said judgment and the petitioner is entitled for the relief sought for.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for A.P.S.R.T.C.

The petitioner was reinstated into service in terms of award of Labour Court in February, 1992. In view of the judgment in W.A No.

1264 of 1996 the petitioner is entitled to reinstatement with continuity of service. Hence, the respondents cannot withheld the gratuity amount for the out of employment period and the ratio laid down by this Court in ***M.Rama Rao*** case is applicable to the petitioner herein.

Since the facts of this case are squarely covered by the judgment of this Court in ***M.Rama Rao*** case (cited supra), following the said judgment and for the reasons mentioned above, the writ petition is disposed of directing the respondents to compute the gratuity payable to the petitioner taking into account the out of employment period i.e., from the date of removal till the date of reinstatement and take necessary steps for payment of balance gratuity amount expeditiously. No costs.

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(N.V. RAMANA, J.)

Date:28-8-2006.

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[1] 1998 (3) ALD 76